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August 23, 2005

Commissioner Kathleen Q. Abernathy
Federal Communications Commission
Room 8-B115
445 – 12th Street, S.W.
Washington, DC 20554

Re: ET Docket No. 05-183
Remington Arms Company, Inc.
Request for Waiver of Sections 15.245, 15.247(b) and
15.247(e) of the FCC's Rules

Dear Commissioner Abernathy:

Over the last several months, and with more frequency over the past several weeks, you and your advisers have met with Remington Arms Company and other parties with an interest in the disposition of Remington's request to manufacture and market the "Eyeball" surveillance device under a waiver of the Part 15 regulations that generally govern the use of unlicensed products. Because Cellnet Technology, Inc. ("Cellnet")¹ has a strong interest in protecting the integrity of the various bands in which Part 15 devices have generally proliferated to the substantial benefit of consumers, I am writing to reiterate Cellnet's concerns with Remington's request, as more specifically detailed in its comments filed on June 6, 2005.

The Commission has recognized that its Part 15 rules governing unlicensed devices have been highly successful in fostering the development of new unlicensed devices, while protecting authorized uses of the radio spectrum from harmful interference.² Part 15 limits and design

¹ Cellnet is the leading provider of real-time automated meter reading ("AMR") and automation solutions to the utility industry. Based in Atlanta, Georgia, Cellnet supplies gas, water, and electric utilities with highly reliable, field-proven products that enable them to communicate with residential and commercial and industrial meters using wireless and IP network communications. Using a combination of Part 101 Multiple Address System ("MAS") licenses and spread spectrum Part 15 devices, Cellnet has created a low-cost, private internal telemetry services network which allows it to transmit and receive data for the remote monitoring and control of devices, primarily utility meters. Cellnet utilizes the 902-928 MHz band for its unlicensed local area network connecting the endpoint (meter) devices to the MAS network. Cellnet is dedicated to combining its leading technology and vast industry experience to continue to provide the industry with the most reliable and proven AMR solutions available.

² *Modification of Parts 2 and 15 of the Commission's Rules for unlicensed devices and equipment approval*, FCC 04-165, 19 FCC Rcd 13539, 69 FR 54027 (2004), at para. 4.

specifications have been established to encourage good engineering practices, with emissions suppressed as much as practicable, and with devices designed to use the minimum field strength necessary and maximum attenuation of unwanted emissions, so that the bands that Part 15 devices utilize can be shared on a cooperative basis.

For an unlicensed band to be shared cooperatively, all parties should be required to play by the established rules. The Commission should not discourage the use of good engineering practices by granting waivers of Part 15 technical rules except in unique circumstances. Otherwise, of course, exceptions will swallow the rule; and those companies that have designed their equipment in conformance with the FCC's technical rules will be severely disadvantaged. Thus, if the FCC grants any Part 15 waiver request, the waiver should be both narrowly drawn and of short duration to minimize potential impact on rule-compliant products.

This is particularly true in the case of Remington where it appears that with the expenditure of some capital, the equipment for which a waiver is sought could over time be engineered to comply with existing rules. Therefore, although Cellnet opposes any waiver, if a waiver is granted, then Cellnet urges that any waiver must be subject to three restrictions:

- Restricted as to the customers who can use it;
- Restricted as to its mode of use; and
- Restricted as to the length of time by which a product compliant with the existing rules must be developed.

Customer Restriction: Remington justifies the need for a waiver on the unique demand of law enforcement agencies for this type of product. Therefore, any waiver should be restricted to allow the Eyeball R1 System only to be sold to federal, state and local law enforcement agencies; allowing the marketing to any other users (including, for example, other Part 90 Public Safety Pool eligibles such as private detective agencies), goes beyond the justification for a *waiver* of the rules.

Mode of Use Restriction: The waiver should not apply to the stationary and mounted versions of the R1 Eyeball, alternatives for which already exist in the marketplace. The unique feature claimed by Remington is the Eyeball's use in a mobile mode (it is rugged, can be thrown, will self-right, etc.). Since Remington has justified the waiver on the basis of the unavailability of similar products that will protect the safety and life of law enforcement personnel, there is no need to grant a *waiver* for products that are not unique, and numerous similar competitive products are already available in the stationary/mounted mode. Therefore, the waiver should prohibit (i) the advertising of the Eyeball used in a stationary/mounted mode and (ii) the sale by Remington of any accessories to the Eyeball which facilitate its use in a stationary/mounted mode.

Time Restriction. Finally, any waiver to Remington should be limited to a maximum of 18 months. Remington has not suggested that it is unable to develop a similar product that could meet the technical requirements of the rules without a waiver; Remington simply states that such


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product does not exist today to satisfy the immediate demands of law enforcement. If a waiver is to be granted, it should not be permanent. There is no reason that, over time, Remington cannot develop a rule-compliant product, and by limiting any waiver to a fixed period of time, it will be appropriately incented to do so.

It cannot be ignored that Remington insists that the grant of a waiver will not cause objectionable interference to devices that are operating in the Part 15 bands within the scope of the existing rules. To assure that this is the case, if the Commission grants a Part 15 waiver, the Commission should remind Remington (and, indeed, all other operators of unlicensed Part 15 devices) of its obligation to avoid harmful interference to licensed and unlicensed operators in the band and to work cooperatively with operators that are experiencing interference to resolve any such incidents to the mutual satisfaction of all parties concerned.

Respectfully submitted,

Cellnet Technology, Inc.

By: 
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General Counsel

cc: John Branscome, Office of Commissioner Abernathy
Bruce Franca, Office of Engineering and Technology
Gregg Skall, counsel for Remington